

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

CAREY L. ROSS,

Plaintiff,

v.

KEVIN MCMICHAEL, *et al.*,

Defendants.

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CASE NO. 5:10-CV-401 (MTT)

ORDER

This matter is before the Court on the Plaintiff's Motion for New Trial, Motion to Appoint Counsel, and Motion for Leave to Appeal In Forma Pauperis. (Docs. 62, 64, 65). Pursuant to Fed. R. Civ. P. 59(a)(1)(B), a court may grant a new trial "for any reason for which a rehearing has heretofore been granted in a suit in equity in federal court." The Plaintiff argues a new trial is appropriate because the Defendants did not put forth physical evidence, such as videotapes or pictures of the incident. However, the testimony of Sheriff Charles Roper and the Defendants, like the Plaintiff's testimony, constituted evidence for the Court to consider. The Plaintiff also claims he was prejudiced because he is a "slow person," but fails to articulate how he was prejudiced by any cognitive limitations. Accordingly, the Motion for New Trial is **DENIED**.

The Plaintiff also seeks to have counsel appointed because "[t]he issues involved in this case are complex, and will require significant research and investigation." (Doc. 64, at 1). It is not clear whether the Plaintiff seeks to have counsel appointed for a new trial or on appeal. In any event, the issues in this case are neither complex nor require significant research. Although the Plaintiff claims he was a special education student,

the Court finds that the Plaintiff can adequately represent himself, and thus the Motion to Appoint Counsel is **DENIED**.

Finally, the Plaintiff seeks to appeal in forma pauperis. Pursuant to 28 U.S.C. § 1915(a)(3), “[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” For the reasons set forth at the nonjury trial, in the Court’s best judgment, an appeal cannot be taken in good faith. Accordingly, the Plaintiff’s Motion for Leave to Appeal In Forma Pauperis is **DENIED**.

SO ORDERED, this 10th day of August, 2012.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT